

**IN THE CIRCUIT COURT OF MONROE COUNTY, MISSISSIPPI****JERRY BOWEN AND CHERYL BOWEN****PLAINTIFFS****VS****CAUSE NO.: CV2010-252-PM****AMORY HMA, LLC d/b/a GILMORE MEMORIAL  
REGIONAL MEDICAL CENTER, HEALTH MANAGEMENT  
ASSOCIATES, INC., GILMORE MEMORIAL HOSPITAL, INC.  
PATRICK ANDERSON MURPHREE, M.D. AND  
JOHN DOE DEFENDANTS 1-5****DEFENDANTS**

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**PLAINTIFF'S DESIGNATION OF EXPERT WITNESSES**

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Pursuant to the Mississippi Rules of Civil Procedure, herein please find Plaintiff's Designation of Expert Witnesses, as follows:

Jennifer Tyra  
33084 Highway 45 North  
Nettleton, Mississippi 38858  
Phone: 662-297-4755

Mrs. Tyra graduated from Mississippi University for Women, 1100 College Street, Columbus, Mississippi, in May 1995 and received her BS in Accounting. Mrs. Tyra worked for the following employers:

Leggett & Platt  
115 Industrial Road North  
Tupelo, Mississippi 38801  
Phone: 662-842-5237  
Payroll Department

Dodge Incorporated  
Tupelo, Mississippi  
Accounts Payable/Receivable

JE Vance & Company, P.A. – Certified Public Accountants  
825 West Jefferson Street  
Tupelo, Mississippi 38804  
Phone: 662-842-2123  
Accounting for various businesses

Mrs. Tyra is expected to testify as an expert in the field of accounting and finances on behalf of the Plaintiff Jerry Bowen. Mrs. Tyra is expected to give an opinion of Jerry Bowen's loss of past, present and future income since the December 6, 2007 surgery at Gilmore Memorial Regional Medical Center in which Dr. Murphree performed an interscalene block on Jerry Bowen. Mrs. Tyra is expected to give an opinion that Jerry Bowen has experienced a loss of annual income in the approximate amount of \$50,908.00. Mrs. Tyra reached this annual income amount based on the U.S. Bureau of Labor Statistics' May 2014 *Economic News Release*, "Table B-8. Average hourly and weekly earnings of production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted" which gives an average weekly earnings for nonsupervisory construction employees of \$979.00 per week, which totals \$50,908.00 annually. Mrs. Tyra is expected to testify that Jerry Bowen has experienced a loss of \$329,923.00 income since December 6, 2007(based on \$50,908.00 annual salary). Mrs. Tyra is expected to testify that:

Jerry Bowen will lose \$687,258.00 in future income if he works to the age of 75 years, for a total of \$1,017,181.00 loss of past, present and future income (based on \$50,908.00 annual salary); or

Jerry Bowen will lose \$432,718.00 in future income if he works to the age of 70 years, for a total of \$762,641.00 loss of past, present and future income (based on \$50,908.00 annual salary); or

Jerry Bowen will lose \$178,178.00 in future income if he works to the age of 65 years; for a total of \$508,101.00 loss of past, present and future income (based on \$50,908.00 annual salary).

Mrs. Tyra is expected to testify that another option for computing Jerry Bowen's loss of past, present and future income is to average the annual wages the construction business paid in the 2011 and 2012 tax years. The business did not pay employee wages prior to Jerry Bowen's December 6, 2007, therefore the business' need to pay employee wages since Jerry Bowen's injury is an indicator of the value of Jerry Bowen's ability to work. In 2011 the business paid \$58,492.00 in wages, and in 2012 the business paid \$43,849.00 in wages, for an average of \$51,170.50 in annual wages paid. Mrs. Tyra is expected to testify that Jerry Bowen has experienced a loss of \$331,624.20 income since December 6, 2007 (based on \$51,170.50 annual salary). Mrs. Tyra is expected to testify that:

Jerry Bowen will lose \$689,883.00 in future income if he works to the age of 75 years, for a total of \$1,021,507.20 loss of past, present and future income (based on \$51,170.50 annual salary); or

Jerry Bowen will lose \$434,030.50 in future income if he works to the age of 70 years, for a total of \$765,654.70 loss of past, present and future income (based on \$51,170.50 annual salary); or

Jerry Bowen will lose \$179,096.75 in future income if he works to the age of 65 years; for a total of \$510,720.95 loss of past, present and future income (based on \$51,170.50 annual salary).

Robert Scott Harris, M.D.  
Emory University Hospital  
Department of Anesthesiology  
1364 Clifton Road, N.E.  
Atlanta, GA 30322  
Phone: 404-778-3900



Dr. Harris is a licensed physician board certified in the field of anesthesiology (2002 American Board of Anesthesiology Certification No. 34768). Dr. Harris is expected to testify as expert in the field of anesthesiology on behalf of the Plaintiff Jerry Bowen.

Dr. Harris is expected to give opinions based upon a reasonable degree of medical certainty that the appropriate standard of care when administering an interscalene block in Monroe County, Mississippi (the location of Gilmore Memorial Medical Center) required the following:

1. Informed consent, verbal and written
2. Knowledge of the pertinent anatomy
3. Administration of the proper drug and dosage
4. Demonstration of and proficiency with the accepted technique
5. Postoperative follow-up visit by the anesthesiologist or a qualified departmental representative (as recognized by the Joint Commission on Accreditation of Healthcare Organizations)

Dr. Harris is expected to testify based upon a reasonable degree of medical certainty that the Defendants failed to obtain proper written or verbal consent from Jerry Bowen. Dr. Harris is expected to testify based upon a reasonable degree of medical certainty that the Defendants failed to do a postoperative follow-up evaluation following Jerry Bowen's December 6, 2007 interscalene block.

Dr. Harris is expected to testify that the interscalene block administered by Dr. Murphree caused or contributed to Jerry Bowen suffering a brachial plexus injury. Dr. Harris' opinion is based upon a review of medical records, especially the April 25, 2008, EMG study which shows re-innervation.

Dr. Harris' opinions are based on, but not limited to, a review of the subject complaint, Jerry Bowen's medical records from Dr. Turba, Gilmore Memorial Medical Center, Dr. Murphree, Dr. Bobo, Dr. Muhlbauer and Dr. Zeiger.

Zvi Herschman, M.D.  
346 Wilson Street  
West Hempstead, NY 11552  
Phone (516) 486-7384

Dr. Herschman is a licensed physician board certified in the field of anesthesiology. Dr. Harris is expected to testify as expert in the field of anesthesiology on behalf of the Plaintiff Jerry Bowen.

Dr. Hershman is expected to give opinions based upon a reasonable degree of medical certainty that the appropriate standard of care when administering an interscalene block in Monroe County, Mississippi (the location of Gilmore Memorial Medical Center) required the following:

1. Informed consent, verbal and written
2. Knowledge of the pertinent anatomy
3. Administration of the proper drug and dosage
4. Demonstration of and proficiency with the accepted technique
5. Stopping administration of anesthesia when patient demonstrates severe pain and discomfort
6. Postoperative follow-up visit by the anesthesiologist or a qualified departmental representative (as recognized by the Joint Commission on Accreditation of Healthcare Organizations)

Dr. Herschman is expected to testify based upon a reasonable degree of medical certainty that the Defendant(s) failed to properly act and/or stop administration of the interscalene block when Jerry Bowen exhibited signs of severe pain and discomfort; failed to properly act and/or stop administration of the interscalene block when Jerry Bowen's right arm began jerking violently; failed to properly administer the interscalene block causing the needle to impale the brachial plexus during numerous needle insertions; failed to properly administer the interscalene block causing the needle to impale the brachial plexus then injecting anesthesia into the brachial plexus; failed to obtain proper informed consent from Jerry Bowen prior to the interscalene block; failed to do a postoperative follow-up evaluation following Jerry Bowen's December 6, 2007 interscalene block.

Dr. Hershman is expected to testify that the interscalene block administered by Dr. Murphree caused or contributed to Jerry Bowen suffering a brachial plexus injury.

Dr. Hershman's opinions are based on, but not limited to, a review of the subject complaint, Jerry Bowen's medical records from Dr. Turba, Gilmore Memorial Medical Center, Dr. Murphree, Dr. Bobo, Dr. Muhlbauer and Dr. Zeiger.

John Edward Turba, M.D.  
King's Daughters Medical Center  
427 Highway 51 North  
Brookhaven, Mississippi

Dr. Turba is a licensed physician board certified in the field of orthopaedic surgery. Additionally Dr. Turba is a member of the American Academy of Orthopaedic Surgery and the American Orthopaedic Society of Sports Medicine. Dr. Turba has given testimony in this cause via video and transcribed deposition at the instance of the Plaintiff. Dr. Turba is expected to testify at trial regarding any/all matter discussed during his deposition, including but not limited to, the following:



1. Dr. Turba vs. Dr. Murphree's responsibilities regarding informed consent, verbal and written;
2. Knowledge of the pertinent anatomy;
3. Causation of injury to Jerry Bowen's brachial plexus;
4. Pain and limitations Jerry Bowen has suffered as a result of injury to his brachial plexus;
5. Disability/inability to continue employment following December 6, 2007 surgery;
6. The lack of medical necessity for Jerry Bowen to undergo both general anesthesia and interscalene block.

Dr. Turba is expected to testify that Dr. Murphree failed to obtain proper informed consent from Jerry Bowen prior to the interscalene block. Dr. Turba is expected to testify that the interscalene block administered by Dr. Murphree caused or contributed to Jerry Bowen suffering a brachial plexus injury. Dr. Turba is expected to testify that the rotator cuff surgery could have been performed without the interscalene block, and that Dr. Turba no longer performs rotator cuff surgery with both general anesthesia and interscalene block. Dr. Turba is expected to testify that Jerry Bowen has experienced and will continue to experience immense pain and loss of use of his arm as a direct result of the brachial plexus injury. Dr. Turba is expected to testify that Jerry Bowen has been unable to return to work since his brachial plexus injury on December 6, 2007.

Dr. Turba's opinions are based on his education and vast experience as a practicing orthopaedic surgeon, along with his personal treatment of Jerry Bowen and referrals to other physicians such as Dr. Bobo and Dr. Muhlbauer.

R. Hunt Bobo, M.D.  
North Mississippi Neurosurgical Services  
4381 South Eason Boulevard  
Suite 302, Third Floor  
Tupelo, Mississippi, 38801  
Phone (662) 377-5700

Michael S. Muhlbauer  
Semmes Murphry Clinic  
6325 Humphrys Blvd.  
Memphis, Tennessee 38120  
Phone (901) 522-7700

Dr. Bobo and Dr. Muhlbauer are board certified neurosurgeons and are expected to testify that the interscalene block administered by Dr. Murphree caused Jerry Bowen to suffer a brachial plexus injury. Bobo and Muhlbauer are also expected to testify as to Plaintiff's brachial plexus injury caused him to suffer pain and suffering, loss of use of his upper extremity, mental depression, and other physical damages. Dr. Bobo and Dr. Muhlbauer's opinions are based on their education and experience as practicing neurosurgeons, along with their personal treatment, testing, examinations and treatment of referral physicians of Jerry Bowen.

Plaintiff reserves the right to supplement.

This the 30<sup>th</sup> day of May, 2014.

JERRY BOWEN AND CHERYL BOWEN,  
PLAINTIFFS

BY:   
NED "TRES" MCDONALD, III

MCDONALD LAW FIRM, PLLC  
143-C WILLOWBROOK DRIVE  
SALTILLO, MS 38866  
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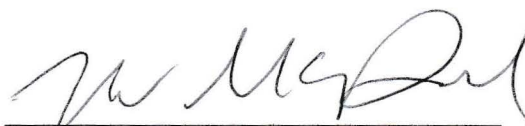
**CERTIFICATE OF SERVICE**

I, NED "TRES" MCDONALD, III, counsel for Plaintiffs, Jerry Bowen and Cheryl Bowen, do hereby certify that I have this day mailed, by United States Mail, a true and correct copy of the above and foregoing Plaintiff's Designation of Expert Witnesses to:

Mr. Louis Baine, Esquire  
Page Kruger & Holland  
Suite 200- 10 Canebrake Blvd  
Flowood, Mississippi 39232

Mark Caraway, Esq.  
Wise Carter  
P.O. Box 651  
Jackson, MS 39205-0651

THIS, the 30<sup>th</sup> day of May, 2014.

A handwritten signature in black ink, appearing to read "Ned McDonald, III", written over a horizontal line.

NED "TRES" MCDONALD, III